

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X	:	
MATTHEW ANTHONY GATTUSO,	:	
	:	
Plaintiff,	:	
	:	24-CV-2880 (VSB)
-against-	:	
	:	<u>ORDER</u>
BOOZ ALLEN HAMILTON and JASON	:	
DUSTERWALD,	:	
	:	
Defendants.	:	
-----X	:	

VERNON S. BRODERICK, United States District Judge:

Plaintiff filed this action pro se on April 16, 2024. (Doc. 1 (“Compl.”)) On July 29, 2024, I entered an order dismissing sua sponte Plaintiff’s claims related to Defendants’ alleged violations of federal criminal statutes for lack of subject-matter jurisdiction. (Doc. 10.) After observing that Plaintiff’s remaining allegations failed to state a claim—Plaintiff had not alleged that Defendants were state actors such that they could be liable for violating the Fourth and Eighth Amendments—I ordered Plaintiff to cure the deficiencies in his Complaint by August 30, 2024. (*Id.*) In response to my July 29, 2024 order, Plaintiff submitted a letter, which stated in relevant part:

So at this time you are telling me that nothing of what the primary defendant (Jason Dusterwald) through his employing company did is illegal. Everything is legal so I no longer need an attorney?

(Doc. 11.) Plaintiff also attached a medical bill to the letter. (*Id.*)

As I explained in my July 29, 2024 order, Plaintiff may only succeed in an action for the violation of the United States Constitution if the person or entity alleged to have violated the Constitution acted “under color of state law.” (Doc. 10 at 2 (quoting *Sykes v. Bank of Am.*, 723 F.3d 399, 406 (2d Cir. 2013).) Read in the light most favorable to the Plaintiff, neither his


Complaint nor his submission in response to the July 29 order allege that any Defendant, including Jason Dusterwald, acted under color of state law. Accordingly, it is hereby:

ORDERED that Plaintiff's claims that Defendants violated the Fourth and Eighth Amendments, (Compl. at 7), are DISMISSED for failure to state a claim on which relief may be granted.

The Clerk of Court is respectfully directed to terminate all pending motions and to close the case.

SO ORDERED.

Dated: October 2, 2024
New York, New York


Vernon S. Broderick
United States District Judge